

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MATTHEW R. SCHLEY,

Defendant.

CASE NO. CR19-0247-JCC

ORDER

This matter comes before the Court *sua sponte*. On November 27, 2019, Mr. Schley was charged by indictment with one count of Felon in Possession of a Firearm in violation of 18 U.S.C. 922(g)(1). (Dkt. No. 13.) After a continuance, trial was scheduled for June 15, 2020. (*See* Dkt. No. 23.) As a result of the COVID-19 pandemic's impact in this district, the Government moved to vacate the trial date and set a status conference to determine an appropriate trial date. (Dkt. No. 37.) The Court granted the motion, scheduled a status conference for August 11, 2020, and held that the time between the date of the Court's order and the date of the status conference was an excludable period under the Speedy Trial Act. (Dkt. No. 44.) As a result of the pandemic's continued impact in this district, the Court continued the status conference until September 29, 2020, (Dkt. 49), and then to October 6, 2020, (Dkt. No. 51).

Over the past six months, the COVID-19 pandemic has significantly impacted the Court's operations. (*See* General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20 each of

which the Court incorporates by reference.) Specifically, the pandemic has rendered the Court unable to obtain an adequate spectrum of jurors to represent a fair cross section of the community, and public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the courtroom. (*See generally id.*) Recently, conditions have improved such that the Court can resume a limited number of in-person criminal jury trials at the courthouse. Chief Judge Martinez has concluded that:

[F]or the foreseeable future, it will be possible to proceed with only one in-person criminal jury trial at a time at each of the district's two courthouses. The order in which pending criminal cases will proceed to trial will be determined by the Court in consultation with the Federal Public Defender's Office and the United States Attorney's Office.

W.D. Wash. General Order 15-20 (Oct. 2, 2020) at 2. Pursuant to these provisions of General Order 15-20, the Court SETS this matter for trial on November 30, 2020. Further, the Court FINDS the ends of justice served by continuing trial to November 30, 2020 outweigh Defendant's and the public's best interests in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The reasons for this finding are:

1. The COVID-19 pandemic has rendered the Court unable to obtain an adequate spectrum of jurors to represent a fair cross section of the community, which would likely make proceeding with an earlier trial impossible or, at a minimum, would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
2. Public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the courtroom. Therefore, proceeding with an earlier trial would likely be impossible. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

Accordingly, the Court ORDERS:

1. Trial in this matter is scheduled for November 30, 2020.
2. The pretrial motions deadline is October 19, 2020.
3. All pretrial filings—including trial briefs, motions in limine, proposed voir dire,

1 proposed jury instructions, and proposed verdict forms—must be submitted no later
2 than Monday, November 16, 2020.

- 3 4. The period from June 10, 2020, when the Court first granted a continuance based on
4 the impact of COVID-19, until November 30, 2020, is an excludable time period
5 under 18 U.S.C. section 3161(h)(7)(A).
6 5. The status conference scheduled for October 6, 2020 is VACATED.

7
8 DATED this 5th day of October 2020.

9
10
11 

12 John C. Coughenour
13 UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26